

BEFORE THE PUBLIC EMPLOYEES RELATIONS BOARD
STATE OF OKLAHOMA

LOCAL 2721, INTERNATIONAL)	
ASSOCIATION OF FIREFIGHTERS,)	
AFL-CIO/CLC,)	
)	
Complainant,)	
)	
v.)	Case No. 00124
)	
CITY OF BARTLESVILLE,)	
OKLAHOMA,)	
)	
Respondent.)	

ORDER STAYING FURTHER PROCEEDINGS

This matter came on for hearing before the Public Employees Relations Board ("PERB" or "the Board") on September 11, 1986, on the Respondent's Motion to Dismiss. The Complainant appeared by and through certain of its officers and its attorney, Bill M. Shaw; the Respondent appeared by and through its attorneys of record, Stephen L. Andrew and D. Kevin Ikenberry. The Board has reviewed the Motion to Dismiss and Briefs in Support and Opposition filed by the respective parties, has heard the arguments of counsel, and has been advised by the office of the Attorney General on the relevant issues of law. Based thereon, the Board reaches the following conclusions:

1. The action of Respondent, challenged herein, involves the discharge of an employee of Respondent who is also an officer of the Complainant Union.
2. The parties agree that the action complained of is a grievable action pursuant to the collective bargaining agreement between the parties.
3. The controversy centers upon a question of contract interpretation and the dispute can be resolved by the application of a contract provision(s).
4. The parties are willing to proceed expeditiously to arbitration.
5. The contractual grievance procedure culminates in arbitration which is final and binding on the parties.

DISCUSSION

The City of Bartlesville has, in its Motion to Dismiss and supporting Brief, urged upon the Board several reasons why it should decline to hear this Complaint at this time. The most persuasive of these arguments is that the Board should defer action pending grievance arbitration (the "deferral to arbitration" doctrine). The Union's objections have gone to the dismissal, rather than the deferral, arguments offered by Respondent. In the absence of full adversarial briefing on the issue, the Board is unwilling to establish a decisional rule of broad application with respect to the deferral to arbitration doctrine. Thus, the Board's application of the deferral doctrine is limited to this case. The Board will give fuller consideration to the scope of the deferred doctrine in future cases.

The Board is not convinced that the parties will suffer lasting irreparable damage if further proceedings herein are stayed pending the outcome of grievance arbitration. The Board is especially mindful that the Legislature has expressed its endorsement of grievance arbitration as a means for resolving labor disputes. 11 O.S.Supp 1985, § 51-111. Grievance arbitration is to be favored because it is the procedure chosen by the parties themselves for dealing with such disputes. See United Technologies, 115 L.R.R.M. 1049, 1050 (1984). The Board is also aware that there well may be circumstances in which deferral is inappropriate, but finds it unnecessary to outline those circumstances at this time.

The power to defer to grievance arbitration is inherent in the statutory grant of jurisdiction over unfair labor practice charges given to PERB via 11 O.S. Supp. 1985, § 51-1046. See Hayford & Wood, Deferral to Arbitration and Unfair Labor Practice Matters: the Public Sector Treatment, 32 Lab.L.J. 679, 683 (1981), collecting cases from the various jurisdictions supporting this view. While the PERB is independently aware that a few public sector boards may be at odds with the United Technologies approach urged upon the Board by Respondent, this is not an appropriate time, because the relevant cases and arguments

have not been canvassed by the Union, to choose from among the competing views of the public sector agencies which have considered this issue.

The Board declines, however, to dismiss the Complaint. The Board intends, rather, to retain jurisdiction pending the outcome of the grievance arbitration alluded to above. The Complainant may call to the Board's attention any change in circumstances which would invalidate findings 1 - 5 above or otherwise indicate that deferral will not satisfy the policies of this Act, and may at such time ask the Board to resume these proceedings.

ORDER

The City of Bartlesville's Motion to Dismiss is granted only insofar as it asks the Board to stay further proceedings in this matter pending the resolution of this dispute through grievance arbitration. The Board specifically retains jurisdiction of the parties and subject matter of this Complaint. The alternative relief (dismissal) requested by Respondent is denied. The parties are directed, pursuant to 51 O.S. Supp. 1985, § 51-1046(c), to inform the Board promptly of the results of the pending grievance arbitration. This hearing may be resumed, at the discretion of the Board, upon proper application, notice, and opportunity to be heard.

Signed at Oklahoma City, Oklahoma
on the ____ day of September, 1986

On behalf of
Public Employees Relation Board

Fred Boston

Fred Boston, Chairman

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